

ILLINOIS REGISTER

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

The Department of Financial and Professional Regulation is posting these proposed rules in an effort to make the public aware of possible changes that may have an impact on the profession.

The general public may submit written comments to the Department during the first 45 day public comment period. Any suggested changes will be considered by the Department and the appropriate Board.

These proposed rules were published in the March 4, 2011 Illinois Register. The 45 day comment period will end April 18, 2011.

Please submit written comments to Craig Cellini as stated in the attached notice.

THESE PROPOSED CHANGES ARE NOT IN EFFECT AT THIS TIME AND THE ADOPTED RULES MAY DIFFER FROM THOSE ORIGINALLY PUBLISHED.

- 1) Heading of the Part: Illinois Athlete Agents Act
- 2) Code Citation: 68 Ill. Adm. Code 1155
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1155.5	New Section
1155.10	New Section
1155.20	New Section
1155.30	New Section
1155.40	New Section
1155.50	New Section
1155.60	New Section
1155.70	New Section
1155.80	New Section
- 4) Statutory Authority: Implementing the Illinois Athlete Agents Act [225 ILCS 401].
- 5) A complete description of the subjects and issues involved: Public Act 96-1030, effective January 1, 2011, creates the Illinois Athlete Agents Act, providing for the licensure of individuals that represent student-athletes; this proposed rulemaking implements that Act. Includes provisions for athlete agents practicing in Illinois as of January 1, 2011 to continue to practice pending adoption of these proposed Rules and subsequent review of their applications.

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- 6) Any published studies or reports, along with the sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

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- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: Those providing representation services for student-athletes.
 - B) Reporting, bookkeeping, or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2011.

The full text of the Proposed Rules begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1155

ILLINOIS ATHLETE AGENTS ACT

Section

1155.5	Definitions
1155.10	Qualifications for Licensure
1155.20	Fees
1155.30	Endorsement
1155.40	Renewals
1155.50	Restoration
1155.60	Inactive Status
1155.70	Granting Variances
1155.80	Dishonorable, Unethical or Unprofessional Conduct

AUTHORITY: Implementing the Illinois Athlete Agents Act [225 ILCS 401] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 35 Ill. Reg. _____, effective _____.

Section 1155.5 Definitions

"Act" means the Illinois Athlete Agents Act [225 ILCS 401].

"Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional sports services contract or an endorsement contract. [225 ILCS 401/15]

"Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. [225 ILCS 401/15]

"Department" means the Department of Financial and Professional Regulation.

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"Director" means the Director of the Division, with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance. [225 ILCS 401/15]

"Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics. [225 ILS 401/15]

"Professional sports services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete. [225 ILCS 401/15]

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport. [225 ILCS 401/15]

Section 1155.10 Qualification for Licensure

- a) Individuals applying for licensure as an athlete agent shall file an application with the Division, on forms provided by the Division, that the applicant:
 - 1) Is at least 21 years of age.
 - 2) Has not engaged in any practice or conduct that would be grounds for discipline.

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- 3) Pays the required non-refundable fee set forth in Section 1155.20.
 - 4) Submits an application which is signed or otherwise authenticated by the applicant under penalty of perjury which contains the following information:
 - A) The name and social security number of the applicant, and the address of the applicant's principle place of business;
 - B) The name of the applicant's business or employer, if applicable;
 - C) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;
 - D) A description of the applicant's education or formal training as an athlete agent, work history included but not limited to any practical experience as an athlete agent, and educational background;
 - E) The names and addresses of all persons who are with respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business and, with respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent or greater;
 - F) The names and addresses of three individuals not related to the applicant who are willing to serve as references,
 - G) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding the date of submission of the application, and;
 - H) Has complied with all other requirements of the Act and this Part.
- b) Section 25(b) of the Act *allows individuals practicing as an athlete agent in Illinois as of January 1, 2011 to continue to practice as provided in the Act until the Department has adopted this Part. To continue practicing as an athlete agent after the adoption of this Part, individuals shall apply for licensure within 90 days. If an application is not filed within the 90 day period, the individual must*

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cease practice as an athlete agent at the conclusion of the 90 day period and until the individual makes an application and the Department grants the license.

- c) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, then the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Section 1155.20 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees
The fee for application for a license as an athlete agent is \$750.
- b) Renewal Fees
The fee for the renewal of a license as an athlete agent shall be calculated at \$375 per year.
- c) General Fees
 - 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
 - 3) The fee for a certification of a licensee's record for any purpose is \$20.
 - 4) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
 - 5) The fee for a roster of persons licensed as athlete agents in this State shall be the actual cost of producing the roster.

Section 1155.30 Endorsement

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- a) An applicant for licensure as an athlete agent who is licensed under the laws of another state shall file an application with the Division that shall include:
 - 1) Documentation certifying that applicant meets the education requirements set forth in Section 1155.10(a)(4)(D);
 - 2) Documentation from the jurisdiction of original licensure and the state by which the applicant is currently licensed, stating whether the file on the applicant contains any disciplinary actions taken or pending, and the applicant's license number;
 - 3) Complete work history; and
 - 4) The required fee set forth in Section 1155.20.
- b) The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination then in force in this State and whether the applicant has otherwise complied with the Act.
- c) The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial or deferral, respectively, of the application.

Section 1155.40 Renewals

- a) The first renewal date for licensure under the Act shall be January 31, 2014. Thereafter, every license issued under the Act shall expire on January 31 of even numbered years. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee and completing the renewal form.
- b) It is the responsibility of each license holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.
- c) Practice on an expired license shall be considered unlicensed practice and shall subject the individual to discipline or other penalties set forth in Section 75 of the Act.

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Section 1155.50 Restoration

- a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees and completion of a new license application.
- b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, including the applicant's work history since the license expired and the required fee. The person shall also submit one of the following:
 - 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice; or
 - 2) An affidavit attesting to military service as provided in Section 55 of the Act.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration of a license shall be requested to provide information as may be necessary.
- e) Upon the recommendation of the Director, an applicant shall have the license restored or will be notified in writing of the reason for the denial of the application.

Section 1155.60 Inactive Status

- a) An athlete agent who notifies the Division, on forms provided by the Division, may place his or her license on inactive status and shall be excused from paying renewal fees until he/she notifies the Division in writing of the intention to resume active practice.

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- b) Any athlete agent seeking restoration from inactive status shall do so in accordance with Section 1155.50.
- c) Any person violating this Section shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

Section 1155.70 Granting Variances

The Director may grant variances from this Part in individual cases when he or she finds that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be injured by the granting of the variance; and
- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

Section 1155.80 Dishonorable, Unethical or Unprofessional Conduct

The Division may suspend or revoke a license, refuse to issue or renew a license or take disciplinary action based upon its finding of dishonorable, unethical or unprofessional conduct as defined by Section 75 of the Act.